Purchasing

Introduction

The Shire is required to adopt a purchasing policy in accordance with r.11A of the *Local Government (Functions and General) Regulations 1996*.

This policy is intended to ensure that any purchasing undertaken by Shire Officers on behalf of the Shire is in accordance with legislative provisions contained in Part 6 – Financial Management of the *Local Government Act 1995* (the Act) and Part 4 – Provisions of Goods and Services of the *Local Government (Functions and General) Regulations 1996.*

Objective

To ensure that all purchasing activities:

(a) achieve best value for money that considers sustainable benefits, such as; environmental, social and local economic factors;

(b) foster economic development by maximising participation of local businesses in the delivery of goods and services;

(c) use consistent, efficient and accountable purchasing processes and decision-making, including; competitive quotation processes, assessment of best value for money and sustainable procurement outcomes for all purchasing activity, including tender exempt arrangements;

(d) apply fair and equitable competitive purchasing processes that engage potential suppliers impartially, honestly and consistently;

(e) commit to probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest;

(f) comply with the *Local Government Act 1995*, *Local Government (Functions and General) Regulations 1996*, other relevant legislation, Codes of Practice, Standards and the Shire of Toodyay's policies and procedures;

(g) ensure purchasing outcomes contribute to efficiencies (time and resources) for the Shire of Toodyay;

(h) identify and manage risks arising from purchasing processes and purchasing outcomes in accordance with the Shire of Toodyay's Risk Management framework;

(i) ensure records evidence purchasing activities in accordance with the *State Records Act 2000* and the Shire's Record Keeping Plan; and

(j) ensure confidentiality that protects commercial-in-confidence information and only releases information where appropriately approved.

Scope

This policy is intended to provide clear direction to Shire Officers undertaking purchasing activities on behalf of the Shire.

It is a requirement that all Shire Officers adhere to this policy. Any breach of this policy may result in disciplinary action.

Definitions

Term	Definition
Category of supply	Groupings of similar goods or services with common: supply and demand drivers; market characteristics; or suppliers.
Complaints Officer	The person who is the complaints officer under section 5.120 of the Act;
Financial viability	The assessment of a range of measures designed to reduce risk.
Market tested	A method used to gauge the viability of a product or service in the mass market prior to a wide scale roll-out; thus, aiming to explore consumer response to a product or marketing campaign by making it available on a limited basis to test markets before a broad release.
Regional	Applies to local government areas neighbouring the Shire
Sustainable procurement	A process demonstrated as being internally focussed (i.e. operational environmental efficiencies or employment opportunities and benefits relating to special needs), or externally focussed (i.e. initiatives such as corporate philanthropy); that meets the Shire's needs for goods, services, works and utilities in a way that achieves value for money on a life-cycle basis while addressing equity principles for sustainable development.
Whole of life costs	The methodology used to estimate the total costs of goods or services (the supply) over the whole of their life.
Whole-of-life cycle costs	The economic procedure used by asset managers to compare competing investment options over a certain analysis period and to identify the option that results in the minimum total life-cycle cost (i.e. the optimal option).
Refer to the Shire of Toodyay (Shire) Glossary (Definitions) located on the Shire website for definitions not listed: https://www.toodyay.wa.gov.au/documents/470/corporate-documents-glossary-(definitions)	

Policy Statement

The Shire is committed to applying the objectives, principles and practices outlined in this Policy, to all purchasing activity and to ensuring alignment with the Shire's strategic and operational objectives.

All purchasing and procurement decisions are to be evidenced in accordance with the Shire's Record Keeping Plan.

1. Delegated Authority

The CEO is responsible for mitigation of risks in respect to this policy and has delegated authority to make ***unlimited*** payments from the Shire's Municipal or Trust Funds in accordance with Regulation 12(1)(a) of the *Local Government (Financial Management) Regulations 1996* in order to operationally manage the Shire.

2. Ethics and Integrity

The Shire adopted a Statement of Business Ethics outlining what the Shire expects from suppliers and what suppliers can expect from the Shire.

The Shire's Employee Code of Conduct applies when undertaking purchasing activities and decision making, requiring Shire Officers to always observe the highest standards of ethics and integrity and act in an honest and professional manner that supports the Shire's reputation.

Shire Officers undertaking purchasing activities must:

(a) conduct purchasing activities impartially, without favouritism or bias towards any suppliers. Decisions should be based on objective criteria such as price, quality and suitability for purpose;

(b) ensure that records evidence purchasing activities in accordance with the *State Records Act 2000* and the Shire's Record Keeping Plan to facilitate transparency and accountability. This includes maintaining accurate records of vendor communications, bid evaluations, contract negotiations and justification for decisions made;

(c) identify and manage risks arising from purchasing processes and outcomes in accordance with the Shire's Risk Management Framework;

(d) adhere to organisational policies, procedures and relevant laws and regulations governing purchasing activities. This includes compliance with procurement policies, anti-corruption laws, the Shire's Statement of Business Ethics and the Code of Conduct;

(e) handle sensitive information with discretion and maintain confidentiality where required, particularly regarding vendor negotiations, pricing and contract terms. Confidential information should only be shared with authorised individuals on a need-to-know basis;

(f) protect commercial-in-confidence information and release information only where appropriately approved to maintain confidentiality and uphold commercial sensitivity standards;

(g) identify and disclose any actual or perceived personal or financial conflicts of interest that could influence their purchasing decisions and refrain from engaging in activities where a conflict of interest exists. They should prioritise the organisations' interest above personal gain;

(h) foster ethical relationships with suppliers based on trust, honesty and mutual respect;

(i) avoid engaging in activities that could compromise the integrity of the procurement process, such as accepting bribes, kickbacks, or other forms of unethical behaviour;

(j) Report any information about actual or potentially fraudulent, corrupt or illegal activities including breaches of the Code of Conduct to the Complaints Officer;

(k) Take responsibility for their actions and decisions in purchasing activities. This includes being accountable for ensuring compliance with ethical standards, mitigating risks and achieving value for money in procurement outcomes; and

(l) Actively seek opportunities to enhance their ethical and integrity practices in purchasing activities. This may involve participating in training programs, staying informed about emerging ethical issues, and seeking feedback from stakeholders on ways to improve procurement processes.

3. Value for Money

The Shire will apply value for money principles in critically assessing purchasing decisions and acknowledges that the lowest price may not always be the most advantageous.

3.1 Assessing Value for Money

Value for money assessment will consider:

(a) all relevant Total Costs of Ownership (TCO) and benefits including; transaction costs associated with acquisition, delivery, distribution, and other costs such as, but not limited to; holding costs, consumables, deployment, training, maintenance and disposal;

(b) whole-of-life costs and benefits; whole of life cycle costs (for goods); whole of contract life costs (for services);

(c) the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality. This includes but is not limited to:

- an assessment of compliances;
- the supplier's resource availability;
- capacity and capability;
- value-adds offered;
- warranties;
- guarantees;
- repair and replacement policies;
- response times;
- ease of inspection and maintenance;
- ease of after sales service; and
- ease of communications, etc.

(d) The supplier's financial viability and capacity to supply without risk of default including the competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history;

(e) A strong element of competition in the allocation of order(s) or the awarding of contract(s). This is achieved by obtaining adequate competitive quotations in accordance with 6.3.2 wherever practicable;

(f) The safety requirements and standards associated with both the product design and the specification offered by suppliers and the evaluation of risk arising from the supply, operation and maintenance;

(g) The environmental, economic and social benefits arising from the goods, services or works required, including consideration of these benefits in regard to the supplier's operations, in accordance with this Policy and any other relevant Shire Policy including Local Economic Benefit; and

(h) Analysis and management of risks and opportunities that may be associated with the purchasing activity, potential supplier(s) and the goods or services required.

Where a higher priced conforming offer is recommended, there should be clear and demonstrable benefits over and above the lowest total priced, conforming offer.

4. WALGA Preferred Suppliers

Officers may utilise the WALGA Preferred Supplier list to ensure that all purchasing is carried out in a cost effective and time efficient manner that provides maximum benefit to the Shire and in turn benefit the Council and the community pursuant to Division 2 Tenders for providing goods or services in the *Local Government (Functions and General) Regulations 1996.* When Officers choose this option they must record their reasons for utilising the preferred supplier list within the record management system, enabling it to be a record for auditing purposes.

5. Purchasing Thresholds

The following Officers are authorised to approve purchase orders, contract extensions after a contract is finalised and variations on behalf of the Council, within the limits stated, provided that the proposed purchases are contained within the Annual Budget, within the Officer's area of activity, adhere to the purchasing threshold provisions in section 3 of this policy, subject to delegation ES2.

Position Title	Maximum
Chief Executive Officer	$unlimited, provided the expenditure is contained within the adopted budget of Council **Refer to delegations**
Executive Manager Planning and Regulatory Services	$75,000
Executive Manager Finance and Corporate Services	$75,000

Position Title	Maximum
Executive Manager Economic Development and Community Services	$75,000
Executive Manager Infrastructure, Assets and Services	$75,000
Coordinator – Depot, Fleet, Parks and Waste	$25,000
Coordinator – Civil Works and Construction	$25,000
Project Manager	$10,000
Community Emergency Services Manager (*emergency purposes only*)	$8,000

5.1 Raising Requisitions and/or Purchase Orders

5.1.1 Requisitions are to be raised prior to purchase order creation that includes:

(a) Creditor Account;

(b) Transaction Date and Expected Delivery Date;

(c) Reference Number and Description (quote number and line-item information);

(d) Custom Inputs such as: Have you considered local suppliers?; Have you selected a WALGA Preferred Supplier; Is this decision compliant with Purchasing Policy?;

(e) Quotes and Supplier Justification such as: Justification of supplier – e.g. variation to contract, sole supplier, genuine parts, best value for money, shortest lead time and best service; and details of the quotes received: Date, Supplier Name, Quote Ref, Price Details;

(f) The Product Code, Job Activity Code, and GL account number being utilised for the expenditure; and

(g) Documentation that explains the purchase: such as an email, a quotation and/or proforma invoice is to accompany all requisitions.

5.1.2 Any written requests for expenditure are to include:

(a) The name of the provider of goods or services;

(b) The details of the goods or services being provided;

(c) The total value of the order being raised;

(d) The Product Code, Job Activity Code, and GL account number being utilised for the expenditure;

(e) The name of the person requesting the order; and

(f) The name and signature of the person authorising the order.

6. Defining the Purchasing Value

The Shire will apply reasonable and consistent methodologies to assess and determine Purchasing Values, which ensure:

(a) The appropriate purchasing threshold and practice is applied in all purchasing activities; and

(b) Wherever possible, purchasing activity for the same category of supply is aggregated into single contract arrangements to achieve best value and efficiency in future purchasing activities where the requirements can be provided by a single supplier.

6.1 Strategic Purchasing Value Assessments

(a) The Shire will periodically review recent past purchasing activity across its operations to identify categories of supply for which the Shire will have continuing need, and which can be aggregated into single contract arrangements to achieve best value for money and efficiency in future purchasing activity; and

(b) The assessment of aggregated expenditure for the same category of supply capable of being supplied by a single supplier will determine the Purchasing Value threshold applicable to future purchasing activity.

6.2 Individual Purchasing Value Assessments

In any case, where there is no relevant current contract, each purchasing activity is to assess the Purchasing Value based upon the following considerations:

(a) exclusive of Goods and Services Tax (GST); and

(b) the estimated total expenditure for the proposed supply including the value of all contract extension options and where applicable, the total cost of ownership considerations;

(c) the appropriate length of a contract is to be determined based on market volatility, ongoing nature of supply, historical purchasing evidence and estimated future purchasing requirements;

(d) requirements must not be split to avoid purchasing or tendering thresholds pursuant to r.12 of the *Local Government (Functions and General) Regulations 1996*; and

(e) the calculated estimated Purchasing Value will determine the applicable threshold and purchasing practice to be undertaken.

6.3 Table of Purchasing Thresholds and Practices

6.3.1 Supplier Order of Priority

The Shire will consider and apply, where applicable, the following Supplier Order of Priority in the table below:

Priority	Detail
Priority 1: **Existing Prequalified Supplier Panel or other Contract**	Current contracts, including a Panel of Prequalified Suppliers (reviewed on a 3 yearly basis) or contracted supplier, must be used where the Shire's supply requirements can be met through the existing contract. If the Shire does not have a current contract relevant to the required supply, then a relevant WALGA PSA is to be used.
Priority 2: **Local Suppliers**	Where the Purchasing Value does not exceed the tender threshold and a relevant local supplier is known to be capable of providing the required supply, the Shire will ensure that wherever possible quotations are obtained from local suppliers permanently located within the district as a first priority, and those permanently located within surrounding districts as the second priority. If no relevant local supplier is available, then a relevant WALGA PSA may be used.
Priority 3: **Tender Exempt - WALGA Preferred Supplier Arrangement (PSA)**	Use a relevant WALGA PSA regardless of whether or not the Purchasing Value will exceed the tender threshold. However, if a relevant PSA exists but an alternative supplier is considered to provide best value, then the CEO, or an officer authorised by the CEO, must approve the alternative supplier. Reasons for not using a PSA may include: i. Local supplier availability (that are not within the PSA); or, ii. Social procurement – preference to use Aboriginal business or Disability Enterprise. If no relevant WALGA PSA is available, then a relevant State Government CUA may be used.
Priority 4: **Tender Exempt - WA State Government Common Use Arrangement (CUA)**	Use a relevant CUA regardless of whether or not the Purchasing Value will exceed the tender threshold. However, if a relevant CUA exists, but an alternative supplier is considered to provide best value for money, then the proposed alternative supplier must be approved by the CEO, or an officer authorised by the CEO. If no relevant CUA is available, then a Tender Exempt arrangement may be used pursuant to r.11(2) of the *Local Government (Functions and General) Regulations 1996.*
Priority 5:	Regardless of whether or not the Purchasing Value will exceed the tender threshold, the Shire will investigate and seek quotations from tender exempt suppliers and will

Priority	Detail
Other Tender Exempt arrangement Refer to r.11(2) of the *Local Government (Functions and General) Regulations 1996.*	specifically ensure that wherever possible quotations are obtained from a WA Disability Enterprise and / or an Aboriginal Owned Business that is capable of providing the required supply.
Priority 6: **Other Suppliers**	Where there is no relevant existing contract or tender exempt arrangement available, purchasing activity from any other supplier is to be in accordance with relevant Purchasing Value Threshold and Purchasing Practice specified in the table below.

6.3.2 Purchasing Practice Purchasing Value Thresholds

The Purchasing Value, assessed in accordance with clause 3, determines the Purchasing Practice to be applied to the Shire's purchasing activities.

Where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is expected to be:

Purchase value Threshold (ex GST)	**Purchasing Practice**
Up to $5,000 (ex GST)	**Direct purchase from suppliers.** Obtain at least one (1) verbal or written quotation from a suitable supplier in accordance with the Supplier Order of Priority detailed in clause 6.3.1(1). This instance applies to a single, simple purchase where the cost of seeking competitive quotes would be unreasonable in terms of a cost to benefit analysis basis (e.g.: purchasing library books or minor catering or stationery supplies).
From $5,001 and up to $20,000 (ex GST)	**Seek at least two (2) verbal or written quotations** from suitable suppliers in accordance with the Supplier Order of Priority detailed in clause 6.3.1(1). If purchasing from a WALGA PSA, CUA or other tender exempt arrangement, a minimum of one (1) written quotation is to be obtained. The purchasing decision is to be based upon assessment of the supplier's response to:

Purchase value Threshold (ex GST)	**Purchasing Practice**
	• a brief outline of the specified requirement for the goods; services or works required; and • Value for Money criteria, not necessarily the lowest price.
From $20,001 and up to $50,000 (ex GST)	**Seek at least three (3) written quotations** from suitable suppliers in accordance with the Supplier Order of Priority detailed in clause 6.3.1(1) except if purchasing from a WALGA PSA, CUA or other tender exempt arrangement, where a minimum of one (1) written quotation is to be obtained. The purchasing decision is to be based upon assessment of the suppliers' responses to: • a brief outline of the specified requirement for the goods; services or works required; and • Value for Money criteria, not necessarily the lowest quote.
$50,000 - $249,999	Seek at least three (3) written responses from suppliers by invitation under a formal Request for Quotation (RFQ) in accordance with the Supplier Order of Priority detailed in clause 6.3.1(1) The purchasing decision is to be based upon assessment of the supplier's response to: • a detailed written specification for the goods, services or works required; and • pre-determined selection criteria that assess all best and sustainable value considerations. For procurement of goods and services in this range, the selection should not be based on price alone. The assessment of the quotes should consider qualitative factors such as: quality, stock availability, accreditation, time for completion or delivery, warranty conditions, technology, maintenance requirements, the organisation's capability, previous experience and any other relevant factors.
$250,000 and above *(ex GST)*	**Tender Exempt** arrangements (i.e. WALGA PSA, CUA or other tender exemption under r.11(2) of the *Local Government (Functions and General) Regulations 1996* which requires at least three (3) written responses from suppliers by invitation under a formal Request for Quotation in accordance with the Supplier Order of Priority detailed in clause 6.3.1(1) OR

Purchase value Threshold (ex GST)	**Purchasing Practice**
	Public Tender undertaken in accordance with the *Local Government Act 1995* and relevant Shire Policy and procedures. The Tender Exempt or Public Tender purchasing decision is to be based on the supplier's response to: • A detailed specification; and • Pre-determined selection criteria that assesses (evaluates) all best and sustainable value considerations.
Emergency Purchases ***within Budget*** **Refer to Clause 5.5**	Where goods or services are required for an emergency response and are within scope of an established Panel of Pre-qualified Supplier or existing contract, the emergency supply must be obtained from the Panel or existing contract using relevant unallocated budgeted funds. If there is no existing Panel or contract, then clause 6.3.1 (1) Supplier Order of Priority will apply wherever practicable. However, where due to the urgency of the situation; a contracted or tender exempt supplier is unable to provide the emergency supply OR compliance with this Purchasing Policy would cause unreasonable delay, the supply may be obtained from any supplier capable of providing the emergency supply. However, an emergency supply is only to be obtained to the extent necessary to facilitate the urgent emergency response and must be subject to due consideration of best value and sustainable practice. The rationale for policy non-compliance and the purchasing decision must be evidenced in accordance with the Shire's Record Keeping Plan.
Emergency Purchases *(No budget allocation available)* **Refer for Clause 5.5**	Where no relevant budget allocation is available for an emergency purchasing activity then, in accordance with s.6.8 of the *Local Government Act 1995,* the Shire President must authorise, in writing, the necessary budget adjustment prior to the expense being incurred. The CEO is responsible for ensuring that an authorised emergency expenditure under s.6.8 is reported to the next ordinary Council Meeting. The Purchasing Practices prescribed for Emergency Purchases (within budget) above, then apply.
LGIS Services	The suite of LGIS insurances, established in accordance with s.9.58(6)(b) of the *Local Government Act 1995,* provided as part of a mutual, where WALGA Member Local Governments are the owners of LGIS. Therefore, obtaining LGIS insurance services is available as a

Purchase value Threshold (ex GST)	**Purchasing Practice**
Section 9.58(6)(b) *Local Government Act 1995*	member-base service and not defined as a purchasing activity subject to this Policy. If the Shire seek quotations from alternative insurance suppliers, compliance with this Policy is required.

6.4 Principles relating to written quotations

General principles relating to written quotations are:

(a) an appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion.

(b) the request for written quotation may include:

(i) written Specification;

(ii) selection criteria to be applied;

(iii) Price Schedule;

(iv) Conditions of responding;

(v) Validity period of offer.

(c) invitations to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond.

(d) offer to all prospective suppliers at the same time any new information that is likely to change the requirements.

(e) responses should be assessed to compliance, then against the section criteria, and then value for money and all evaluations documented.

(f) respondents should be advised in writing as soon as possible after the final determination is made and approved.

6.5 Emergency Purchases

Emergency purchases are defined as the supply of goods or services associated with:

(a) a local emergency and the expenditure is required (within existing budget allocations) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets; OR

(b) a local emergency and the expenditure is required (with no relevant available budget allocation) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets in accordance with s.6.8 of the *Local Government Act 1995* and r.11(2)(a) of the *Local Government (Functions and General) Regulations 1996*; OR

(c) a State of Emergency declared under the *Emergency Management Act 2005* and therefore, regulations 11(2)(aa), (ja) and (3) of the *Local Government (Functions and General) Regulations 1996* apply to vary the application of this policy.

Time constraints, administrative omissions and errors do not qualify for definition as an emergency purchase. Instead, every effort must be made to research and anticipate purchasing requirements in advance and to allow sufficient time for planning and scoping proposed purchases and to then obtain quotes.

6.6 Inviting Tenders Though not Required to do so

The Shire may determine to invite Public Tenders, despite the estimated Purchase Value being less than the $250,000 prescribed tender threshold, but only where an assessment determines that the purchasing requirement cannot be met through a tender exempt arrangement and the use of a public tender process will enhance; value for money, efficiency, risk mitigation and sustainable procurement benefits.

In such cases, the tender process must comply with the legislative requirements and the Shire's tendering delegation and procedures pursuant to r.13 of the *Local Government (Functions and General) Regulations 1996.*

6.7 Expressions of Interest

Expressions of Interest (EOI) will be considered as a prerequisite to a tender process pursuant to r.21 of the *Local Government (Functions and General) Regulations 1996* where the required supply meets one or more of the following criteria:

(a) unable to sufficiently scope or specify the requirement;

(b) there is significant variability for how the requirement may be met;

(c) there is potential for suppliers to offer unique solutions and/or multiple options for how the purchasing requirement may be obtained, specified, created or delivered;

(d) subject to a creative element; or

(e) provides a procurement methodology that allows for the assessment of a significant number of potential tenderers leading to a shortlisting process based on non-price assessment.

All EOI processes will be based upon qualitative and other non-price information only.

6.8 Unique Nature of Supply (Sole Supplier)

An arrangement with a supplier based on the unique nature of the goods or services required or for any other reason, where it is unlikely that there is more than one potential supplier may only be approved where the:

(a) purchasing value is estimated to be over $5,000; and

(b) purchasing requirement has been documented in a detailed specification; and

(c) specification has been extensively market tested and only one potential supplier has been identified as being capable of meeting the specified purchase requirement; and

(d) market testing process and outcomes of supplier assessments have been evidenced in records, inclusive of a rationale for why the supply is determined as unique and why quotations / tenders cannot be sourced through more than one potential supplier.

An arrangement of this nature will only be approved for a period not exceeding one (1) year. For any continuing purchasing requirement, the approval must be re-assessed before expiry, to evidence that only one potential supplier still genuinely exists.

6.9 Tender Exemption

In the following instances, public tender procedures are not required (regardless of the value of expenditure):

(a) an emergency situation pursuant to s.11(2)(a) of the *Local Government (Functions and General) Regulations 1996;*

(b) the purchase is under a contract of WALGA (Preferred Supplier Arrangements), Department of Treasury and Finance (permitted Common Use Arrangements), Regional Council, or another Local Government;

(c) the purchase is under auction which has been authorised by Council;

(d) the contract is for petrol, oil, or other liquid or gas used for internal combustion engines;

(e) any of the other exclusions under r.11(2) of the *Local Government (Functions and General) Regulations 1996* that apply.

6.10 Issue of Sole Source of Supply (Monopoly Suppliers)

The procurement of goods and/or services available from only one private sector source of supply (i.e.: manufacturer, supplier or agency) is permitted without the need to call competitive quotations provided that there must genuinely be only one source of supply. Every endeavour to find alternative sources must be made. Written confirmation of this must be kept on file for audit purposes.

Note: The application of the provision "sole source of supply" should only occur in limited cases and procurement experience indicates that generally no more than one supplier is able to provide the requirements.

6.11 Tender Criteria

The Shire shall, before tenders are publicly invited, determine the criteria for deciding which tender should be accepted.

The CEO shall establish an evaluation panel prior to the advertising of a tender and include a mix of skills and experience relevant to the nature of the purchase.

6.12 Advertising Tenders

Tenders are to:

(a) be advertised in a state-wide publication as a minimum and in local media where possible.

(b) remain open for at least fourteen days after the date the tender is advertised.

The Notice must include:

(a) a brief description of the goods or services required;

(b) information as to where and how tenders may be submitted;

(c) the date and time after which tenders cannot be submitted;

(d) particulars identifying a person from whom more detailed information as to tendering may be obtained;

(e) detailed information shall include:

(i) such Information as the Shire decides should be disclosed to those interested in submitting a tender;

(ii) detailed specifications of the goods or services required;

(iii) the criteria for deciding which tender should be accepted; and

(v) whether or not tenders can be submitted by facsimile or other electronic means, and if so, how tender may be submitted.

6.13 Issuing Tender Documentation

Tenders will not be made available (counter, mail, internet, via Tenderlink, referral or other means) without a robust process to ensure the recording of details of all parties who acquire the documentation.

This is essential in instances where clarifications, addendums or further communication is required prior to the close of tenders. All potential tenderers must have equal access to this information in order for the Shire not to compromise its duty to be fair.

6.14 Tender Deadline

A tender that is not received in full in the required format by the advertised Tender Deadline shall be rejected.

6.15 Opening of Tenders

(a) The opening of tenders is to comply with regulation 16(3) of the *Local Government (Functions and General) Regulations 1996.*

(b) Tenders are to be opened in accordance with the advertised time and place.

(c) After the Tender Deadline tenders are to be:

(i) Downloaded from Tenderlink; or

(ii) Removed from the tender box or opened (read or evaluated)

(d) Details of all tenders received and opened shall be recorded in the Shire's Record Keeping System and the details of acceptable Tenderers recorded in the Shire's Tenders Register.

(e) Members of the public are entitled to be present at the tender opening by contacting the Shire via email at records@toodyay.wa.gov.au to notify their intention to be present.

(f) If members of the public are present at the tender opening there is no obligation to disclose or record tendered prices at the tender opening as price information is regarded as commercial-in-confidence to the Shire.

6.16 No Tender Received

Where the Shire has invited tenders and no compliant submissions have been received, direct purchases can be arranged on the basis of the following:

(a) A sufficient number of quotations are obtained;

(b) The process follows the guidelines for seeking quotations between $50,000 and $249,999 (listed above);

(c) The specification for goods and/or services remains unchanged;

(d) Purchasing is arranged within six months of the closing date of the lapsed tender; and

(e) Council Approval.

6.17 Tender Evaluation

Tenders that have not been rejected by the evaluation panel shall be assessed by means of a written evaluation against the pre-determined criteria to determine which tender is most advantageous.

6.18 Addendum Tender

If, after the tender has been publicly advertised, any changes, variations or adjustments to the tender document and/or the conditions of tender are required, the Shire may vary the initial information by taking reasonable steps to give each person who has sought copies of the tender documents notice of the variation.

6.19 Minor Variation

If after the tender has been publicly advertised and a successful tenderer has been chosen but before the Shire and tenderer have entered into a Contract, a minor variation may be made by the Shire.

A minor variation will not alter the nature of the goods and/or services procured, nor will it materially alter the specification or structure provided for by the initial tender.

6.20 Notification of Outcome

The CEO, or a relevant Authorised Officer will notify all tenderers within 21 days of the outcome of the tender. The notification is to include the details of the Council resolution.

Notification shall include:

(a) The name of the successful tenderer; and

(b) The total value of consideration of the winning offer.

The CEO, or a relevant Authorised Officer will record the details and total value of consideration for the winning offer into the Tenders Register at the conclusion of the tender process.

If no tender was accepted, the Shire must publish a notice, through Tenderlink, or through local public notice stating that “no tenders were accepted.”

6.21 Anti-Avoidance

The Shire will not conduct multiple purchasing activities with the intent (inadvertent or otherwise) of "splitting" the purchase value or the contract value, so that the effect is to avoid a particular purchasing threshold or the need to call a Public Tender. This includes the creation of two or more contracts or creating multiple purchase order transactions of a similar nature.

6.22 Contract Renewals, Extensions and Variations

(a) Council delegated power to the CEO and other employees to administer contracts or a contract matter including where the contract is of an operational nature on behalf of the local government in accordance with Section 9.49 B "Contract Formalities" of the *Local Government Act 1995*.

(b) Where a contract has been entered into as the result of a publicly invited tender process, then r.21A of the of the *Local Government (Functions and General) Regulations 1996 a*pplies.

(c) For any other contract, not awarded by public tender, the contract must not be varied unless:

(i) The variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract;

(ii) the CEO has considered circumstances where the contract value increase is over a policy threshold level, due to the variation or extension; or

(iii) The variation is a renewal or extension of the term of the contract where the extension or renewal options were included in the original contract.

(d) Upon expiry of the original contract, and after any options for renewal or extension included in the original contract have been exercised, the Shire is required to review the purchasing requirements and commence a new competitive purchasing process in accordance with this Policy.

(e) Contract variations are amendments to a contract that change the original terms or conditions. Variations are usually used to alter the scope of the supply or services provided or to change pricing.

(f) The CEO may make minor contract variations before entering into a contract in accordance with Delegation ES10 Expression of Interest and Tenders.

(g) The CEO will use their discretion as to whether the contract variation to provide goods and services is inconsistent with the scope of the original contract; or significantly alters the scope of the original contract. If the variation is not minor, then the CEO is to commence a separate procurement process.

(h) Contracts could be extended only if the terms of the original contract included extension options and should be subject to a documented performance assessment.

(i) The Shire will:

(i) include comprehensive guidance to staff on recording of contract information and management of contract extensions and variations, so that better practices are consistently applied across the organisation;

(ii) maintain a register of contracts to help effectively manage contract extensions and variations. The register should be reviewed annually, to identify contracts that are due to expire, so that appropriate action starts well before the contract expiry date;

(iii) ensure the register of contracts includes all key information relating to contracts. The level of information should be based on an assessment of the significance, number and complexity of contractual arrangements;

(iv) ensure that records of key decisions are retained in accordance with recordkeeping plans and are readily available;

(v) continuously improve review processes relating to contract extensions, including timely and documented reviews of contractor performance before exercising contract extension options;

(vi) ensure that contract variations are supported by adequate documentation describing the nature and reasons for the variations, including the associated cost, time and scope implications. The cumulative impact of variations on a contract should also be reviewed and an assessment made of whether a separate procurement process should be undertaken; and

(vii) ensure that all contract extensions and variations are approved in accordance with approved delegations, to ensure that all contracting decisions are subject to appropriate levels of scrutiny.

7. Sustainable Procurement

(a) The Shire is committed to implementing sustainable procurement by providing a preference to suppliers that demonstrate sustainable business practices (social advancement, environmental protection and local economic benefits);

(b) The Shire will apply Sustainable Procurement criteria as part of the value for money assessment to ensure that wherever possible our suppliers demonstrate outcomes which contribute to improved environmental, social and local economic outcomes; and

(c) Requests for Quotation and Tenders will include a request for Suppliers to provide information regarding their sustainable practices and/or demonstrate that their product or service offers enhanced sustainable benefits.

7.1 Local Economic Benefit

The Shire promotes economic development through the encouragement of competitive participation in the delivery of goods and services by local suppliers permanently located within the Shire's district first, and secondly, those regional suppliers permanently located within its broader region. As much as practicable, the Shire will:

(a) consider buying practices, procedures and specifications that encourage the inclusion of local businesses and the employment of local residents;

(b) consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);

(c) ensure that procurement plans, and analysis is undertaken prior to develop Requests to understand local business capability and local content availability where components of goods or services may be sourced from within the District for inclusion in selection criteria;

(d) explore the capability of local businesses to meet requirements and ensure that Requests for Quotation and Tenders are designed to accommodate the capabilities of local businesses;

(e) avoid bias in the design and specifications for Requests for Quotation and Tenders – all Requests must be structured to encourage local businesses to bid;

(f) consider the adoption of Key Performance Indicators (KPIs) within contractual documentation that require successful Contractors to increase the number of employees from the District first; and

(g) provide adequate and consistent information to local suppliers.

To this extent, a weighted qualitative criterion will be included in the selection criteria for Requests for Quotation and Tenders where suppliers are located within

the boundaries of the Shire, or substantially demonstrate a benefit or contribution to the local economy.

7.2 Environmentally Sustainable Procurement

(1) The Shire will support the purchasing of recycled and environmentally sustainable products whenever a value for money assessment demonstrates benefit toward achieving the Shire's strategic and operational objectives.

(2) Qualitative weighted selection criteria will be used in the evaluation of Requests for Quote and Tenders to provide advantages to suppliers which:

(a) demonstrate policies and practices that have been implemented by the business as part of its operations;

(b) generate less waste material by reviewing how supplies, materials and equipment are manufactured, purchased, packaged, delivered, used, and disposed; and

(c) encourage waste prevention, recycling, market development and use of recycled/recyclable materials.

(3) Preference will be given to:

(a) the purchase of products that are recycled and/or contain recycled material with a recyclable content of more than 20% (recycled materials being defined as post-consumer material, domestic material and post-consumer industrial material as defined by Australian Standard AS 1986) from Australian waste provided:

(i) The product is suitable for the purpose intended;

(ii) The quality of the product is equivalent to its new material counterpart; and

(iii) The cost is comparable to its new material counterpart or not more than 5% greater including any other printing costs.

(b) goods or services that aim to minimise impacts on the environment;

(c) electrical equipment that is Energy Star compliant. The highest star rating should be sought within the designated price range with a minimum rating of four required. Higher star ratings may be afforded a 5% allowance when comparing pricing with lesser rated products;

(d) water using appliances that are AAA rated. Higher rated appliances may be afforded a 5% allowance when comparing pricing with lesser rated products.

(4) Where the Shire intends to procure goods and services, the following considerations should be given:

(a) the selection of vehicles featuring the highest fuel efficiency available based on the required vehicle type and within the designated price range;

(b) the use of renewable energy and technologies for new buildings and refurbishments whenever possible;

(c) demonstrated environmental best practice in energy efficiency and/or consumption which can be demonstrated through suitable rating systems and eco-labelling;

(d) demonstrated environmental best practice in water efficiency;

(e) products that can be refurbished, reused, recycled or reclaimed shall be given priority, and those that are designed for ease of recycling, re-manufacture or otherwise to minimise waste;

(f) products that are environmentally sound in manufacture, use and disposal;

(g) products that are made using minimal amounts of raw materials from an unsustainable resource; and

(h) products that are free of toxic or polluting materials and that consume minimal energy during the production stage.

8. Records Management

All Local Government purchasing activity, communications and transactions must be evidenced and retained as local government records in accordance with the *State Records Act 2000* and the Shire's Record Keeping Plan.

In addition, the Shire must consider and will include in each contract for the provision of works or services, the contractor's obligations for creating, maintaining and where necessary the transferral of records to the Shire relevant to the performance of the contract.

8.1 Tender Process includes:

(a) Approvals and Sign-off for the Request for Tender documentation;
(b) Registration form and other Internal documentation;
(c) Advertisement;
(d) Site inspection records;
(e) Enquiry and response documentation including addendums;
(f) Evaluation documentation; and
(g) Notification and award documentation.

8.2 Direct purchasing process includes:

(a) Quotation documentation;
(b) Internal documentation; and
(c) Order forms and requisitions.

9. Purchasing Policy Non-Compliance

(1) The Purchasing Policy is mandated under the *Local Government Act 1995* and Regulation 11A of the *Local Government (Functions and General) Regulations 1996* and therefore the policy forms part of the legislative framework in which the Local Government is required to conduct business.

(2) Where legislative or policy compliance is not reasonably able to be achieved, records must evidence the rationale and decision-making processes that substantiate the non-compliance.

(3) Purchasing activities are subject to internal and external financial and performance audits, which examine compliance with legislative requirements and the Shire's policies and procedures.

(4) If non-compliance with legislation, this Purchasing Policy or the Code of Conduct, is identified it must be reported to the Complaints Officer.

(5) A failure to comply with legislation or policy requirements, including compliance with the Code of Conduct when undertaking purchasing activities, may be subject to investigation, with findings to be considered in context of the responsible person's training, experience, seniority and reasonable expectations for performance of their role.

(6) Where a breach is substantiated, it may be treated as:

(a) an opportunity for additional training to be provided;

(b) a disciplinary matter, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*; or

(c) where the breach is also identified as potentially serious misconduct, the matter will be reported in accordance with the *Corruption, Crime and Misconduct Act 2003*.

10. Regional Price Preference Effect on Purchasing Thresholds Tenders

A supplier of goods or services who submits a tender/quotation is regarded as being a local tenderer if:

(a) The supplier has a physical business premises (in the form of an office, depot, shop, outlet, headquarters or other premises where goods or services are being supplied from), located within the Shire. This does not exclude suppliers whose registered business is located outside the Shire but undertake the business from premises located in the Shire;

(b) A business having permanent staff that are based at the business premises located within the Shire;

(c) Management or delivery of the majority of the outcomes will be carried out from the business premises located in the shire; and

(d) A business located permanently within the Shire's nearby region where the business contributes to the local economy by employment of Shire of Toodyay residents or use of suppliers/contractors which meet point (a), (b) or (c);

(e) In order for the policy to apply, the supplier is required to provide to the Shire sufficient evidence which demonstrates compliance with the above criteria.

Regional Preference will be provided to tenderers by assessing the tender from that Shire tenderer as if the price bids were reduced by:

10.1 Part 1

(a) 10% - where the contract is for goods or services, up to a maximum price reduction of $50,000.
(b) 5% - where the contract is for construction (building) services, up to a maximum price reduction of $25,000.

10.2 Part 2

Although goods or services that form a part of a tender submitted by a Shire tenderer (who is a regional tenderer by virtue of r.24B(2)(b) of the *Local Government (Functions & General) Regulations 1996,* may be:

(a) Wholly supplied from regional sources; or
(b) Partly supplied from regional sources, and partly supplied from, non-regional sources.

Only those goods or services identified in the tender as being from regional sources may be included in the discounted calculations that form part of the assessments of a tender when a regional price preference policy is in operation.

11. Panels of Pre-Qualified Suppliers

In accordance with Regulation 24AC of the *Local Government (Functions and General) Regulations 1996*, a Panel of Pre-qualified Suppliers ("Panel") may be created where most of the following factors apply:

(a) the Shire determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;

(b) there are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of 'value for money';

(c) the purchasing activity under the intended Panel is assessed as being of a low to medium risk;

(d) the Panel will streamline and continuously improve procurement processes; and

(e) the Shire has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel. The Shire will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

11.1 Objectives

The Shire will consider creating a Panel of Pre-qualified Suppliers ("Panel") when a range of similar goods and services are required to be purchased on a continuing and regular basis.

Part of the consideration of establishing a panel includes:

(a) there are numerous potential suppliers in the local and regional procurement related market sector(s) that satisfy the test of 'value for money';

(b) the Panel will streamline and will improve procurement processes; and

(c) the Shire has the capability to establish a Panel and manage the risks and achieve the benefits expected of the proposed Panel through a Contract Management Plan.

11.2 Establishing and Managing a Panel

(1) If the Shire decides that a Panel is to be created, it will establish the panel in accordance with the *Local Government (Functions and General) Regulations 1996*. Panels will be established for one supply requirement, or a number of similar supply requirements under defined categories. This will be undertaken through an invitation procurement process advertised via a state-wide notice.

(2) Panels may be established for a maximum of three (3) years. The length of time of a Local Panel is decided with the approval of the CEO.

(3) In each invitation to apply to become a pre-qualified supplier, the Shire will state the expected number of suppliers it intends to put on the panel.

(4) Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.

(5) If a Panel member leaves the Panel, the Shire will consider replacing that organisation with the next ranked supplier that meets/exceeds the requirements in the value for money assessment – subject to that supplier agreeing. The Shire will disclose this approach in the detailed information when establishing the Panel.

(6) A Panel contract arrangement needs to be managed to ensure that the performance of the Panel Contract and the Panel members under the contract are monitored and managed. This will ensure that risks are managed and expected benefits are achieved. A Contract Management Plan should be established that outlines the requirements for the Panel Contract and how it will be managed.

11.3 Distributing Work amongst Panel Members

To satisfy Regulation 24AD(5) of the *Local Government (Functions and General) Regulations 1996*, when establishing a Panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the Shire intends to:

(a) Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases; or

(b) Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or

(c) Develop a ranking system for selection to the Panel, with work awarded.

In considering the distribution of work among Panel members, the detailed information must also prescribe whether:

(a) Each Panel member will have the opportunity to bid for each item of work under the Panel, with pre-determined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items of work. Contracts under the pre-qualified panel will be awarded on the basis of value for money in every instance; or

(b) Work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under r.24AD(5)(f) when establishing the Panel.

(i) The Shire will invite the highest ranked Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken.

(ii) Should the offer be declined, an invitation to the next ranked Panel member is to be made and so forth until a Panel member accepts a Contract.

(iii) Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the Shire may then invite suppliers that are not pre-qualified under the Panel, in accordance with the Purchasing Thresholds of this Policy.

(iv) When a ranking system is established, the Panel must not operate for a period exceeding twelve months.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond twelve months, which includes options to extend the contract.

11.4 Purchasing from the Panel

The invitation to apply to be considered to join a panel of pre-qualified suppliers must state whether quotations are either to be invited to every Panel member (within each category, if applicable) of the Panel for each purchasing requirement, whether a ranking system is to be established, or otherwise.

11.5 Communications with Panel Members

(1) The Shire will ensure clear, consistent and regular communication with Panel Members.

(2) Each quotation process, including the invitation to quote, communications with panel members, quotations received, evaluation of quotes and notification of award communications must all be captured on the Shire's electronic records system. A separate file is to be maintained for each quotation process made under each Panel that captures all communications between the Shire and Panel members.

(3) For the creation of a Panel, this includes:

(a) the Procurement initiation document such as a procurement business case which justifies the need for a Panel to be created;

(b) procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the Panel;

(c) request for Applications documentation;

(d) copy of public advertisement inviting applications;

(e) copies of applications received;

(f) evaluation documentation, including clarifications sought;

(g) negotiation documents such as negotiation plans and negotiation logs;

(h) approval of award documentation;

(i) all correspondence to applicants notifying of the establishment and composition of the Panel such as award letters;

(j) Contract Management Plans which describe how the contract will be managed; and

(k) copies of framework agreements entered into with pre-qualified suppliers.

11.6 Record Keeping

All Local Government purchasing activity, communications and transactions must be evidenced and retained as local government records in accordance with the *State Records Act 2000* and the Shire's Record Keeping Plan.

In addition, the Shire must consider and will include in each contract for the provision of works or services, the contractor's obligations for creating, maintaining and where necessary the transferral of records to the Shire/Town/City relevant to the performance of the contract.

12. Risk

Purchase and procurement is to take into consideration a risk assessment of the product or service to ensure potential hazards are identified and mitigation strategies determined before the product or service is introduced into the workplace.

The Shire must utilise the following industry experts for advice on procurement matters:

(a) Office of the Auditor General;

(b) Department of Local Government, Sport and Cultural Industries;

(c) Professional services such as legal experts and auditors; and

(d) WALGA.

Reference Information

- Statement of Business Ethics.
- Register of Delegations – CS1 Payments from Municipal Fund or Trust Fund; E10 Expression of Interest and Tenders; and ES14 Contract Formalities;
- Record Keeping Policy.

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Legislation

- *Financial Management Act 2006;*
- *State Records Act 2000.*
- *State Records, Principles and Standards*
- *Local Government Act 1995;*
- *Local Government (Functions and General) Regulations 1996*
- *Local Government (Financial Management) Regulations 1996;*

Associated documents

- *Online requisitioning through Datascape.*
- *Online Purchase Order through Datascape.*
- *Tender Registration Form.*
- *Request for Quotation (RFQ).*
- *Expression of Interest (EOI - Non-Tender).*

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